

**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 21st day of March, 1996

Served March 27, 1996

Essential Air Service at

PRESQUE ISLE, MAINE

under 49 U.S.C., 41731 et seq.

**Docket OST-96-1086**

**ORDER GRANTING WAIVER AND PERMITTING SUSPENSION**

On February 16, 1996, Business Express, Inc<sup>d/b/a</sup> Delta Connection, filed a 90-day notice of its intention to suspend its subsidy-free air service at Presque Isle, Maine, effective May 16, 1996. Business Express further requested that the Department grant the carrier a waiver from the 90-day notice requirement in order to permit it to suspend service on April 30, 1996.

Business Express is a certificated air carrier and was required to file its notice because its proposed suspension of service would result in the reduction of capacity at Presque Isle by more than 33 percent. Section 323.3 (5) of the Department's aviation economic regulations requires that carriers file a 90-day notice if their proposed suspension would result in a reduction of total seats linking the point to FAA-designated hubs by 33 percent or more, and is thus referred to as the "one-third" rule.

Presque Isle's current essential air service definition, as set forth in Order 84-7-76, requires two nonstop or one-stop round trips each weekday and each weekend to Boston. By that order, Presque Isle would be guaranteed the maximum number of seats allowed by the essential air service program, 67 seats outbound per day and 67 inbound.

Flights meeting our essential air service guidelines must be operated with two pilots, and with aircraft having at least two engines, convenient cabin access through an airstair door or similar type access, and a least 15 passenger seats. Flights must also be operated at reasonable times taking into account the needs of passengers with connecting flights at such airports and at rates, fares and charges which are not excessive when compared to the generally prevailing fares of other air carriers for like service between similar pairs of points.

At the time of its filing, Business Express was providing three daily nonstop round trips each day with 34-seat Saab SF-340 equipment to Boston, and USAir Express was providing three nonstop round trips a day with 19-seat Beech 1900 aircraft.

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<sup>1</sup> Order 95-11-28, in response to Congressional cutbacks in the essential air service budget, reduced the maximum level of service the Department would subsidize to two round trips per day, five days per week, or a total of ten round trips per week.

In support of its request to suspend service on less than 90-days' notice, Business Express states the following. First, USAir Express currently provides three nonstop round trips each weekday and four nonstop round trips each weekend, offering a total of 57 seats each weekday and 76 seats each weekend. Second, termination of its service on April 30 would be only two weeks shy of the final date of May 16 required by the 90-day notice. Third, Business Express is now in Chapter 11 bankruptcy, and the public interest requires that it do everything in its power to assure that it remains viable so that it may continue serving the bulk of its markets and continue to employ a substantial number of its employees. In that regard, Business Express states that it is losing about \$80,000 a month serving Presque Isle.

After careful consideration of this matter, we have decided to grant Business Express's exemption request and allow it to terminate service on April 30, contingent upon USAir Express's increasing its service or another carrier's initiating replacement service totaling six round trips a day. USAir Express has stated its willingness to add frequencies, but it cannot do so until on or about April 30. By that date, USAir Express will be able to reposition aircraft and enter the new schedules in its reservations system. We have spoken extensively with community officials, and they do not object to Business Express's early service suspension, provided that additional service is in place, either by USAir Express or another carrier. The carrier transition agreement appears reasonable, and will allow prospective passengers to make plans accordingly.

As a final matter, before Business Express suspends service, we expect it to contact all passengers that hold reservations for flights that will be suspended, to inform them of the suspension and the availability of replacement service by USAir Express and to assist them in arranging alternative transportation.

This order is issued under authority delegated in 49 CFR 1.56(i).

**ACCORDINGLY**

1. We will grant the request of Business Express, Inc., d/b/a Delta Connection, for a waiver from the 90-day notice requirement to allow it to terminate all scheduled service at Presque Isle, Maine, effective April 30, 1996, contingent upon USAir's providing replacement service to Boston consisting of six round trips each weekday and weekend with 19-seat or larger equipment; and
2. We will serve a copy of this order on the civic officials of Presque Isle, Maine, the Maine Department of Transportation, USAir Express, and Business Express.

By:

Charles A. Hunnicutt  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)